



COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

D.T.C. 09-1

June 1, 2009

Investigation by the Department of Telecommunications and Cable on its own motion, pursuant to General Law Chapter 159, Section 16, of the telephone service quality of Verizon New England Inc., d/b/a Verizon Massachusetts, in Berkshire, Hampden, Hampshire, and Franklin Counties.

ORDER TO OPEN INVESTIGATION

I. INTRODUCTION

On February 9, 2009, the Department of Telecommunications and Cable (“Department”) issued a Request for Comment on its proposal to open a regional investigation of the telephone service quality (“quality of service”) of Verizon New England Inc., d/b/a Verizon Massachusetts (“Verizon”), in Berkshire, Hampden, Hampshire, and Franklin Counties; and to consolidate existing Verizon quality of service investigations for the Towns of Hancock and Rowe and a petition regarding Verizon’s quality of service by the Town of Shutesbury into the Department’s proposed regional quality of service investigation (“Regional Service Investigation”).

In response to the Request for Comment, the Department received comments from towns, communities, and residents in Berkshire, Hampden, Hampshire, and Franklin Counties (“western Massachusetts”) and Verizon. Because the towns, communities, and residents in western Massachusetts overwhelmingly support the Regional Service Investigation, and for the reasons discussed below, the Department hereby orders that a regional investigation into Verizon’s quality of service in western Massachusetts be opened.

II. PROCEDURAL HISTORY

Beginning in 2006, the Department has been addressing quality of service complaints, both formal and informal, from towns and residents in western Massachusetts. On January 27, 2006, the Board of Selectmen of the Town of Middlefield (“Middlefield”) filed a petition with the Department requesting an investigation into the quality of service in Middlefield. *In re the Bd. of Selectmen of the Town of Middlefield, Mass., Pursuant to G. L. c. 150, § 24, Regarding*

the Quality of Verizon Mass. ' Tel. Serv., D.T.C./D.T.E. 06-6.¹ After conducting its investigation, the Department issued its final Order on April 30, 2008 (“Middlefield Order”). In the Middlefield Order, the Department determined that the quality of service provided to Middlefield by Verizon was “unjust, unreasonable, and inadequate ... and that Verizon’s practices and equipment [were] unsafe, improper, and inadequate[.]” Middlefield Order, at 1. Middlefield and Verizon subsequently entered into a settlement agreement, resolving quality of service issues, which was approved by the Department on December 16, 2008. Joint Motion for Approval of Settlement Agreement, approved by the Department on Dec. 16, 2008 (“Middlefield Settlement Agreement”).

On May 14, 2007, the Board of Selectmen of the Town of Hancock (“Hancock”) filed a formal complaint with the Department alleging Verizon’s failure to provide adequate quality of service to its customers in Hancock and requesting a Department order directing Verizon to remedy its failure. *In re the Bd. of Selectmen of the Town of Hancock Pursuant to G. L. c. 159, § 24 Regarding the Quality of Verizon Tel. Serv.*, D.T.C. 07-2 (“Hancock Complaint”). The Department opened an investigation on May 16, 2007, and a public hearing was convened on September 27, 2007. The investigation regarding quality of service in Hancock is still pending.

On August 31, 2007, the Board of Selectmen of the Town of Rowe (“Rowe”) filed a formal complaint with the Department alleging Verizon’s failure to provide adequate quality of service to its customers in Rowe and requesting a Department order directing Verizon to remedy

¹ Pursuant to Chapter 19 of the Acts of 2007, the Department of Telecommunications and Energy was dissolved on April 11, 2007. 2007 Mass. Acts c. 19, §§ 1-54. Jurisdiction over telecommunications matters was placed in the newly-created Department of Telecommunications and Cable. *See* G. L. c. 25C, §§ 1-7. For administrative ease, “Department” as used herein refers to both Departments.

its failure. *In re the Town of Rowe Pursuant to G. L. c. 159, § 24 Regarding the Quality of Verizon Tel. Serv.*, D.T.C. 07-5 (“Rowe Complaint”). The Department opened an investigation on September 5, 2007, and a public hearing was convened on October 17, 2007. The investigation regarding quality of service in Rowe is still pending.

On September 26, 2008, Verizon customers in the Town of Shutesbury (“Shutesbury”) filed a petition with the Department alleging Verizon’s failure to provide them with adequate quality of service and requesting, *inter alia*, that Verizon remedy its failure (“Shutesbury Complaint”). The Shutesbury Complaint was not docketed pending the Department’s determination on opening the Regional Service Investigation.

In light of the formal complaints from Middlefield, Hancock, Rowe, and Shutesbury, and an analysis of Verizon monthly service quality index reports appearing to indicate higher levels of trouble reports in western Massachusetts than in other regions of the Commonwealth, the Department issued the Request for Comment on its proposal to open a regional investigation of Verizon’s quality of service in western Massachusetts on February 9, 2009.

In the Request for Comment, the Department requested general comments on the merits of the Regional Service Investigation and specific comments on three questions:

1. Is there a reasonable basis for the Department to conclude that there may be a significant or widespread problem with Verizon’s service quality in western Massachusetts, so as to justify opening a regional service quality investigation covering Berkshire, Hampden, Hampshire, and Franklin counties?
2. If there is sufficient evidence of a possible significant or widespread service quality problem in western Massachusetts, is a regional investigation the best approach for investigating the matter, and if not, what would be a better process for addressing the issues?

3. If the Department determines to open a regional Verizon service quality investigation, is it reasonable and appropriate for the Department to consolidate the existing town-specific investigations for the towns of Hancock and Rowe, and the Shutesbury petition into the new regional investigation?

Request for Comment at 2-3.

After issuing the Request for Comment, the Department received another complaint regarding Verizon's quality of service. This complaint was filed on March 5, 2009, by the Board of Selectmen of the Town of Egremont ("Egremont") alleging that Verizon does not provide adequate telephone service to its customers in Egremont and requested that the Department issue an order directing Verizon to remedy its failure ("Egremont Complaint").

The Department received 57 responses to the Request for Comment including comments by the Massachusetts Towns of Alford ("Alford"), Hancock, Otis ("Otis"), Rowe, Leverett ("Leverett"), New Ashford ("New Ashford"), Warwick ("Warwick"), and Williamstown ("Williamstown"); the community consortiums of Berkshire Connect, Inc.² and Pioneer Valley Connect³ (collectively, the "Connects"); the Massachusetts Office of the Attorney General ("Attorney General"); numerous residents in western Massachusetts; and Verizon.

² Berkshire Connect, Inc. is a regional initiative to improve the telecommunications system and Internet access in Berkshire County.

³ Pioneer Valley Connect is a regional initiative to improve the telecommunications system and Internet access in Franklin, Hampshire, and Hampden Counties.

III. SERVICE QUALITY COMPLAINTS AND COMMENTS

A. Town-specific quality of service investigations/complaints.

1. Quality of service findings in Middlefield.

In the Middlefield Order, the Department reviewed: (i) the rate at which Verizon's Middlefield customers reported trouble with their telephone lines (*e.g.*, no dial tone, static, etc.) as measured by Customer Trouble Reports Per Hundred Lines ("RPHL") (Middlefield Order, at 11-16); and (ii) infrastructure issues raised by Middlefield (*id.* at 16-17). The Department determined that "the quality of service provided to Middlefield by Verizon from January 2004 through September 2006, as measured by the RPHL rate [was] unjust, unreasonable and inadequate." *Id.* at 12. The Department also determined that there was "demonstrate[d] an overall lack of attention by Verizon regarding maintenance of its infrastructure in Middlefield." *Id.* at 16. Verizon has since reviewed and corrected any infrastructure deficiencies. *See* Middlefield Settlement Agreement, at 2.

2. Hancock quality of service investigation.

Hancock alleged in its complaint that numerous Verizon customers have complained about poor telephone service and service outages. Hancock Complaint, ¶ 4. Hancock also alleged that in February 2007, Hancock conducted a test of the town's telephone lines and determined that 11 out of 40 Verizon customers had "poor or non-existing service." *Id.* at ¶ 5; Hancock Exhibit DTC 1. During the hearing on September 27, 2007, numerous residents and town officials testified regarding frequent line noise and/or service outages. Hancock Hearing Transcript ("Tr.") at 6:11-19; 7:20-22; 8:19-24; 13:14-22; 15:11-21; 18:5-17; 20:2-11; 21:20-

22:15; 23:8-13; 26:2-7; 27:7-12; 29:1-2; 31:16-23; 33:12-19. According to Sherman Derby, Hancock's Chief of Police:

What happens is every time it rains or it's damp weather the 911 phone system stops working in some of the homes[....] Verizon has sent a special person out from New York to work on this phone system, he worked all summer long, back and forth with me on it, to straighten out the phones. As of yet, we haven't got them straightened out. Because Verizon refuses to change the wires because of the expense. So they come out and clean the conductors, put them back together again, put the bundles together, took all these rubber boots which were saturated with water, put them all back up again. But the first time you go into the rainy season, you no longer have telephone again.

Id. at 6:11-7:22. One resident, Alex Kastrinakis, also testified that after repeated service calls, a Verizon repair technician requested Mr. Kastrinakis to stop calling Verizon and to contact him directly, in part, because "it looked so bad[.]" *Id.* at 31:24-26.

Hancock, by letter dated March 9, 2009, stated that the Board of Selectmen "supports the regional investigation, as it will promote judicial economy and avoid multiple hearings and duplication of evidence." Hancock Letter dated Mar. 9, 2009, at 1.

3. Rowe quality of service investigation.

Rowe alleged in its petition regarding inadequate telephone service that Verizon customers in Rowe complain about "frequent and wide-spread noise on the line which consists of chatter, static, hums, and other voices[;]" "intermittent loss of service, dropped and interrupted calls[;]" and "frequent total outage of telephone service." Rowe Complaint, ¶¶ 8-10. Rowe also alleged that it can take as long as seven days before a Verizon repair technician responds to a repair request. *Id.* at ¶ 11. During the hearing on October 17, 2007, numerous residents and town officials testified regarding frequent line noise, service outages, and/or long response times

for repairs. Rowe Hearing Tr. at 5:20-6:22; 7:16-8:8; 9:15-10:2; 11:1-15; 12:23-13:13; 20:7-21:62; 22:1-6; 23:19-23; 24:6-22; 25:1-9; 26:10-18; 27:6-14; 30:16-31:5; 32:9-16; 34:2-17; 37:12-38:1; 44:5-13. According to Walt Quist, a Rowe resident:

[W]e have suffered the same snap, crackle and pop that everybody has had in their telephone lines. We have had several outages over the years, everything from being fixed within a day to waiting three or four days for service to be restored, sometimes restored well, sometimes not so. Most of the time that the service went out was following a heavy rain.

Id. at 27:6-14. Another resident, Nancy Brown, testified that the frequency of quality of service issues experienced by Rowe residents may be greater than reported. According to Ms. Brown:

I have heard [...] that Verizon denies the number of service calls or that a high number of service calls are emanating from this town or this area. I was told specifically that if you call in and you ask for service on your line that those calls are not tallied unless your service has been out for over 24 hours. Realistically, how many people are going to say I'm going to wait 24 hours to call vendors so that my complaint will be added to a list? It is ludicrous. I think most people when they discover that their phone is out of service will go immediately and try to call to have their phone repaired.

Id. at 45:19-46:8.

Rowe, by letter dated February 23, 2009, stated that the Board of Selectmen supports the Regional Service Investigation. Rowe Letter dated Feb. 23, 2009, at 1.

4. Formal petitions by Shutesbury and Egremont alleging inadequate quality of service.

The Shutesbury petition was signed by 33 Shutesbury residents who requested, *inter alia*, an investigation into quality of service issues in the Town of Shutesbury. According to the Shutesbury petitioners, “[f]or years, we and our neighbors have had ongoing problems with

phone lines going dead, or having loud hums and static [....] Each time Verizon technicians work on the line they make some improvement, but eventually the problems return.” Shutesbury Complaint, at 1. The Shutesbury petitioners did not respond to the Request for Comment.

Egremont alleged in its complaint that the Board of Selectmen, for years, has received repeated complaints from Egremont residents “that they are receiving substandard telephone service, as well as interruptions in service.” Egremont Complaint, at ¶ 4. The Egremont Complaint includes an affidavit by Charles B. Flynn, III, a former Select Board member and the Chairman of the Egremont Telecommunications Study Committee. Flynn Affidavit, at 1. Mr. Flynn attached 11 e-mails that he received from Egremont residents regarding frequent line noise and service outages. According to residents in one e-mail:

Problems—Loud humming on the line whenever it rains, occasional “no dial tone” at all, we used to hear other people talking and they could hear us, but that seems to be resolved.

Id. at 4 (Lisa and Lord St. Pierre E-mail dated Dec. 1, 2008). Egremont does not object to consolidating its complaint into the Regional Service Investigation.

B. Positions of the respondents to the Request for Comment.

1. Comments in support of the Regional Service Investigation.

a. *The Connects.*

The Connects stated in a joint letter that:

The Connects have heard from residents, businesses, and local officials from several western Massachusetts communities regarding poor telephone service quality. Such complaints have come from throughout western Massachusetts and have not been centralized in one region or sub-region. Service complaints conveyed include an insufficient number of quality phone lines available for existing and new residents, as well as static, clicking,

humming and noise during periods of wet weather. Many of these complaints are indicative of a deteriorating copper cable plant.

Connects Letter dated Feb. 17, 2009, at 1. The Connects also support the Regional Service

Investigation:

Given the distribution of complaints heard by the Connects over the years, we believe that there is sufficient evidence of significant or widespread service quality problems in western Massachusetts. We also believe a regional investigation would be the best approach for addressing this issue in a timely and efficient manner. Attempting to investigate this issue on an individual community or county basis could take an extensive amount of time and resources, and would needlessly duplicate efforts, given the interconnectedness of this telecommunications system. For example, in rural western Massachusetts many communities are served by Central Offices or Remote Terminals located in neighboring towns.

Id. at 2.

b. Attorney General.

In its response to the Request for Comment, the Attorney General stated that “[t]he Office of the Attorney General supports the Department’s initiative” and “believes it is appropriate to undertake a wider review of [Verizon’s] performance in the region.” Attorney General Letter dated Feb. 23, 2009, at 1. According to the Attorney General, based on data from Verizon’s Service Quality reporting, “numerous individual wire centers show sub-par [sic] service quality in the Western Region.”⁴ *Id.* at 2. The Attorney General also noted that “the entire state, including the Western region, has endured consistent subpar performance in the [...]

⁴ The Attorney General identified the wire centers for Chester, Blandford, and Cummington as having particularly acute trouble reports. Attorney General Letter dated Feb. 23, 2009, at 2.

company's response time for restoration of service.” *Id.* at 3. Finally, the Attorney General noted that “available ARMIS [the FCC’s Automated Reporting Management Information Systems] data shows a gap in service quality between large (‘MSA’ [Metropolitan Statistical Area]) and small communities” and that “Non-MSA customers consistently wait longer than do MSA customers for service to be restored after outages.” *Id.* at 4.

c. Other respondents.

The Department also received comments from officials on behalf of Alford, Easthampton, Otis, Leverett, New Ashford, Warwick, and Williamstown; and residents of the aforementioned towns and the Towns of Amherst, Colrain, Conway, Heath, Montague, New Marlborough, New Salem, Northfield, Pittsfield, Shelburne, Turners Falls, Wendell, Westhampton, and Worthington in support of the Regional Service Investigation. The comments were essentially the same in nearly each response: (i) Verizon customers experience frequent line noise and service outages, particularly after wet weather, and that it may take several days before the quality of service problem is addressed by Verizon; and (ii) that the Regional Service Investigation is the best approach because the Department would be able to address the issue comprehensively and coherently. *E.g.*, Leverett E-mail dated Feb. 19, 2009. Leverett indicated in its response that it intends to file a formal complaint regarding its perceived quality of service issues. *Id.*

2. Comments in opposition to the Regional Service Investigation.

Verizon is the only respondent that opposes the Regional Service Investigation. In its response to the Request for Comment, Verizon states that the Regional Service Investigation is unnecessary because: (i) the findings in Middlefield cannot be considered because the quality of

service problems are resolved, no conclusions regarding quality of service in western Massachusetts can be drawn from the ongoing Hancock and Rowe investigations, and the Shutesbury Complaint does not qualify as a complaint (Comments of Verizon New England Inc. dated Feb. 23, 2009 [“Verizon Comments”], at 3-7); (ii) the rolling average reports per hundred lines (“RPHL”) data for the 413 area code is better than the target benchmark level (*id.* at 8-9); and (iii) a case-by-case adjudication of local complaints is more efficient than a regional investigation (*id.* at 9-10).

IV. ANALYSIS AND FINDINGS

The instant issue is whether there is a sufficient basis to open the Regional Service Investigation. Pursuant to G. L. c. 159, § 16, the Department is permitted to open a hearing “upon its own motion *or* upon complaint” into “the regulations, practices, equipment, appliances, or service of any common carrier” to determine whether they are “unjust, unreasonable, unsafe, improper or inadequate” and to prescribe by order “the just, reasonable, safe, adequate and proper regulations and practices” that are required. Thus, the plain language of the statute grants the Department broad authority to open an investigation solely upon its own initiative. *See* G. L. c. 159, § 16. Indeed, the Department is not required to make a factual finding in order to open an investigation under section 16 and opening a regional investigation without a factual finding is not unprecedented. *See Investigation of the Dep’t of Telecomms. & Energy, on Its Own Motion, Pursuant G. L. c. 159, § 16, into the Practices, Equip., Appliances & Serv. of Verizon-Mass. in the Towns of Athol, Petersham, Phillipston, Royalston & Franklin County*, D.T.E. 99-77 (opening a regional investigation of Athol and surrounding towns in Franklin County without predicate factual findings) (“Athol Investigation”). The Department, however, has received five

formal complaints regarding Verizon's quality of service, expects a formal complaint from Leverett, and, in response to the Request for Comment, has received 49 comments from western Massachusetts towns and residents in support of the Regional Service Investigation. Combined, we find this information amounts to a reasonable basis for the Department to open an investigation regarding Verizon's quality of service in western Massachusetts, specifically in Berkshire, Hampden, Hampshire, and Franklin Counties.

Accordingly, for the reasons discussed below, the Department finds that it is appropriate to open the Regional Service Investigation.

A. Legitimate and significant concerns have been raised about the reasonableness of Verizon's quality of service in the four counties of western Massachusetts.

The Department proposed the Regional Service Investigation because, in part:

[t]he evidence, empirical and anecdotal, from the formal and informal complaints shows that the types of complaints from customers are similar throughout the region, and include such issues as repeated service outages, poor signal quality, delays in repairing or restoring service and generally in responding to troubles, and deficiencies in network maintenance and replacement of aged facilities.

Request for Comment at 2.

Currently, there are two docketed quality of service cases (Hancock and Rowe); two formal complaints regarding quality of service that have not been docketed (Shutesbury and Egremont); and one recently completed quality of service case (Middlefield), in which the Department found that Verizon's quality of service in that community was unreasonable. The Department has received five formal complaints in a three-year period.⁵

⁵ If the town of Leverett files a formal complaint as expected, that number will increase to six.

In addition, the officials and residents in 20 other towns responded to the Request for Comment with the same quality of service complaints found in the formal complaints.⁶ The number of responses to the Request for Comment, and the near uniformity of their quality of service complaints, further confirm that a Regional Service Investigation is warranted. *See* Hancock Tr. at 6:11-19 (“[E]very time it rains or it’s damp weather the 911 phone system stops working in some of the homes.”); LeBeau E-mail (“We have gone days without service [...] this all usually happens when it rains.”).

The Attorney General, in its comments, also suggests that quality of service is an issue in western Massachusetts. The Attorney General analyzed western Massachusetts RPHL data and suggests that western Massachusetts wire centers had a higher RPHL than the exchange-level threshold of 4.0 RPHL. Attorney General Comments, at 2. According to the Attorney General, “in the Springfield region, Chester experienced a RPHL over 5.0 in June, August, and December. The Blandford wire center exceeded the threshold in 8 months of 2008, reaching the extraordinary level of 11.39 RPHL in August. Cummington had RPHL above 9.0 for three consecutive months during the summer of 2008.” *Id.* at 2-3. The Attorney General also provides data showing that “Verizon consistently fails to meet the required standard for restoring 60% of out-of-service residential dial tones within 24 hours.”⁷ *Id.* at 3. Finally, the Attorney General notes that ARMIS data shows a gap in service quality between large and small communities,

⁶ *E.g.*, Denise LeBeau E-mail dated Feb. 17, 2009 (“LeBeau E-mail”). The LeBeau E-mail and other responses to the Request for Comment are collected at the Department’s web site which can be found at <http://tinyurl.com/d4yfom>.

⁷ Percent of residential troubles cleared within 24 hours is one of 12 service items that make up the Service Quality Index (“SQI”). *Petition New England Tel. & Tel. Co. d/b/a NYNEX for an Alternative Regulatory Plan for the Co.’s Mass. Intrastate Telecomms. Servs.*, D.P.U. 94-50, at 77-78 (May 12, 1995).

with customers in small communities waiting longer than customers in large communities for service to be restored after outages. *Id.* at 4. Accordingly, the Attorney General supports the Department opening the Regional Service Investigation.

Verizon makes a number of arguments against the Department opening the Regional Service Investigation. The Department, however, does not find Verizon's arguments persuasive.⁸

Verizon contends that the Department's quality of service findings in the Middlefield case should not be considered because Verizon has resolved its quality of service problems in Middlefield as part of the Middlefield Settlement Agreement. Verizon Comments, at 3-4. That Verizon has corrected the quality of service problems in Middlefield misses the point. The problems in Middlefield were real and required a Department investigation and Order to have them corrected. In addition, the quality of service issues in the Middlefield case are substantially similar to those raised in the comments the Department received in the Request for Comment and the complaints filed by Hancock and Rowe. *See* Middlefield Order, at 3 (allegations of deteriorated wiring and antiquated equipment negatively affecting quality of service); Connects Letter dated Feb. 17, 2009, at 1 (same); Hancock Complaint, ¶¶ 4-5 (same); Rowe Complaint, ¶¶ 8-10 (same). Thus, the Middlefield case may be illustrative to the Department of possible quality of service issues emerging in western Massachusetts.

⁸ Although the Department has broad authority to open a regional service investigation upon its own initiative and without making factual findings, the Department will address Verizon's concerns. *See* G. L. c. 159, § 16 (authorizing the Department to open a hearing "upon its own motion *or* complaint") (emphasis added).

Verizon also contends that the Department should ignore the Hancock and Rowe cases because they are in their initial stages. Verizon Comments, at 5-6. Even if the Hancock and Rowe cases are in their initial stages, it does not change the fact that two towns in western Massachusetts experienced what the town officials and residents perceive as quality of service issues significant enough to prompt each town's Board of Selectmen to file complaints with the Department requesting an investigation. *E.g.*, Hancock Tr. at 6:11-7:22; Rowe Tr. at 27:6-14. Like the findings in the Middlefield case, the complaints filed by Hancock and Rowe may be illustrative to the Department of possible quality of service issues emerging in western Massachusetts.

In addition, Verizon argues that the Shutesbury Complaint should be ignored because it is not a properly filed complaint and that it only requests high speed Internet service, "over which the Department has no jurisdiction." Verizon Comments, at 4-5. Verizon's argument fails. First, the Shutesbury Complaint is properly filed where it contained 33 signatures, far more than the requisite "twenty customers of the company" required by G. L. c. 159, § 24, to compel the Department to investigate. Second, the Shutesbury Complaint, while it does address the "lack of high speed Internet access," it also addresses quality of service issues with Verizon's voice telephone lines. Shutesbury Complaint, at 1.

As to the empirical data supporting the Regional Service Investigation, Verizon contends that "there is nothing in the RPHL data that would justify the conclusion that there is 'possible significant or widespread service quality problem in western Massachusetts[.]'" Verizon Comments, at 9. According to Verizon, "during 2008, the rolling average of the monthly report rates for the 413 area code ranged between approximately 1.50 and 1.75 [RPHL,]" a report rate

that “is significantly better than the 2.25 RPHL that serves as the target benchmark level[.]” *Id.* at 8. Reduced to its simplest terms, Verizon seems to argue that as long as it meets the regional SQI RPHL standard for western Massachusetts, the central office-specific RPHL standards do not apply. However, as noted by the Department in the Middlefield case, aggregated data may provide an inaccurate assessment of the quality of service affecting an individual town. *See* Middlefield Order, at 11-12 (finding that reliance on the aggregated RPHL data could allow quality of service issues in Middlefield to be understated or go undetected). Indeed, the Attorney General’s analysis of the empirical data by wire center suggests higher RPHL in western Massachusetts. *See* Attorney General Comments, at 2-3. Thus, the empirical data may be illustrative to the Department of possible quality of service issues emerging in western Massachusetts. Accordingly, none of Verizon’s arguments persuade the Department from opening the Regional Service Investigation.

B. The Regional Service Investigation is the most efficient method of addressing multiple quality of service complaints and for determining whether a widespread problem exists.

Many communities in western Massachusetts have formally or informally contacted the Department regarding perceived quality of service issues. As discussed above, the Department currently has four quality of service cases pending and expects another one to be filed. Each case makes essentially the same allegations regarding issues with Verizon’s quality of service, and the Department’s and complainants’ resources can be used more efficiently by consolidating the cases rather than adjudicating them individually. Many of the towns recognize this fact. As noted by Hancock, and echoed by other respondents to the Request for Comment, the Regional Service Investigation “will promote judicial economy and avoid multiple hearings and

duplication of evidence.” Hancock Letter dated Mar. 9, 2009, at 1. Moreover, the Regional Service Investigation will allow the Department to determine if quality of service problems exist in other communities and, if so, how best to address what may be a widespread regional issue.

In addition, the Regional Service Investigation will make it possible for the Department and parties to gather and evaluate sub-regional (central-office) historical trouble report data that, as Verizon itself has acknowledged, is not available on a town-specific basis. Verizon Comments, at 10 (“It is true that historical service quality data is not always available on a town level, because Verizon MA’s network is based on central offices that often serve multiple communities[.]”); Rowe Complaint, D.T.C. 07-5, Affidavit of John E. Sordillo, dated June 11, 2008, to Verizon MA Appeal of Hearing Officer Ruling, Request to Convene Procedural Conference and Request for Stay, Exhibit 1 at 1 (“Verizon MA’s data-collection systems do not track and record information by municipality for trouble reports per 100 lines (‘RPHL’)[....] As described below, such information is collected on a Central Office basis, and collecting such data, prospectively, for an individual community like the Town of Rowe would require an extensive manual effort. Attempting to extract such information for prior periods would require an even larger manual effort and would not produce accurate or reliable data.”). Central office data is routinely kept by Verizon as part of their monthly SQI reporting obligation and would eliminate a significant evidentiary hurdle in town-specific cases.

As noted above, the Regional Service Investigation is not unprecedented. In the Athol Investigation, the Department began a quality of service investigation of Bell Atlantic (a predecessor company to Verizon) upon written complaint by the Board of Selectmen of the Town of Athol (“Athol”). During a public hearing in the Athol Investigation, members of

neighboring towns sought to intervene in the proceeding on the grounds that customers in those towns also experienced issues as a result of Bell Atlantic's area switching station. Athol Investigation, Order to Expand Investigation, at 1 (Jan. 6, 2000). The Department determined that holding separate public hearings in each intervening town was inefficient and expanded the quality of service investigation to encompass the towns surrounding Athol in light of the uniformity of the complaints and for procedural efficiency. *Id.* at 2.

As in Athol, consolidating the Hancock, Rowe, Shutesbury, and Egremont cases into a single case and expanding the scope of the proceeding to a regional investigation would make the best use of the Department's limited resources. Furthermore, Rowe noted that "most of the towns in western Massachusetts are very small and lack the funding or manpower needed to pursue such a petition on their own, and therefore would probably not pursue such a petition, to the detriment of their townspeople." Rowe Letter dated Feb. 23, 2009, at 1.

C. Conclusion.

The plain language of the statute grants the Department broad authority to open an investigation solely upon its own initiative. G. L. c. 159, § 16. The concerns expressed by a number of towns, communities, and residents regarding Verizon's quality of service in western Massachusetts and certain empirical data further suggest issues regarding quality of service for the region that warrants an investigation regarding whether a quality of service problem exists in western Massachusetts and, if so, what actions should be taken to remedy such possible unreasonable service. Moreover, due to the large scale of the investigation and efficiencies that can be gained in investigating service quality in a regional manner, the Department finds that the

existing cases of Hancock and Rowe, as well as the pending cases of Shutesbury and Egremont should be consolidated into the Regional Service Investigation to be docketed as D.T.C. 09-1.

The Department will conduct the Regional Service Investigation as an adjudicatory proceeding, as defined in G. L. c. 30A, § 1(1). Parties will be allowed to present legal and factual evidence to support their positions. The Department will hold public hearings in Verizon's service territory to hear from members of the public and town officials, as set forth in the legal notice to be published shortly.

V. ORDER

Consistent with the above, the Department hereby:

VOTES: To open an investigation, docketed D.T.C. 09-1, regarding the reasonableness of Verizon Massachusetts' telephone service quality in Berkshire, Hampden, Hampshire, and Franklin Counties, pursuant to G. L. c. 159, § 16; and it is

FURTHER ORDERED: That the dockets in the Hancock, D.T.C. 07-2, and Rowe, D.T.C. 07-5, investigations and the formal quality of service complaints filed with the Department by Shutesbury and Egremont, on September 26, 2008 and March 9, 2009, respectively, be consolidated into this proceeding.

BY ORDER OF THE DEPARTMENT,

Carol E. Foltz, Interim Commissioner